

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANGEL RODRIGUEZ ISAQUI,	:	CIVIL ACTION NO. <b>1:16-CV-2545</b>
	:	
Plaintiff	:	(Judge Kane)
	:	
v.	:	(Magistrate Judge Saporito)
	:	
JOHN F. MARTIN & SONS, INC.,	:	
	:	
Defendant	:	

**REPORT AND RECOMMENDATION**

The *pro se* plaintiff filed this civil rights action on December 27, 2016, pursuant to 28 U.S.C. § 1331. (Doc. 1). Plaintiff has filed a motion for leave to proceed *in forma pauperis*, which for present purposes will be deemed sufficient. (Doc. 2). The sole defendant is John F. Martin & Sons, Inc.

Plaintiff raises claims of discrimination and retaliation in conjunction with an EEOC claim he filed against defendant with the Pennsylvania Human Relations Commission. (Doc. 1-1).

A court may transfer any civil action for the convenience of the parties or witnesses, or in the interests of justice, to any district where the action might have been brought. 28 U.S.C. §1404(a).

**FILED  
WILKES BARRE**  
DEC 28 2016

Title 28 U.S.C. §1391(b) provides that:

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

Venue in the Middle District of Pennsylvania is not proper. Plaintiff's claims arose in Lancaster County, Pennsylvania, which is within the jurisdiction of the United States District Court for the Eastern District of Pennsylvania. Further, the plaintiff resides in Lancaster County and the defendant has a business address there, and both are in the Eastern District of Pennsylvania. Venue is therefore properly in the Eastern District of Pennsylvania, as the defendant maintains a business address there and all of the events in question arose there. Accordingly, the present action should be transferred to the United States District Court for the Eastern District of Pennsylvania for the convenience of the parties and in the interests of justice. *See Morris v. McCaffrey*, Civil Action No. 3:07-CV-01985, 2007 WL 4260958 (M.D. Pa. Nov. 29, 2007).

Based on the foregoing, it is respectfully recommended that the action be transferred to the United States District Court for the Eastern District of Pennsylvania

pursuant to 28 U.S.C. § 1406(a). It is further recommended that the disposition of the plaintiff's request to proceed *in forma pauperis* be left to the transferee court's discretion.

  
JOSEPH F. SAPORITO, JR.  
United States Magistrate Judge

**Dated: December 28, 2016**

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JOHN F. MARTIN & SONS, INC.,	:	
	:	
Defendant	:	

**NOTICE**

**NOTICE IS HEREBY GIVEN** that the undersigned has entered the foregoing **Report and Recommendation** dated **December 28, 2016**.

Any party may obtain a review of the Report and Recommendation pursuant to Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

Failure to file timely objections to the foregoing Report and Recommendation may constitute a waiver of any appellate rights.

*s/ Joseph F. Saporito, Jr.*  
**JOSEPH F. SAPORITO, JR.**  
**United States Magistrate Judge**

**Dated: December 28, 2016**